REMARKS

I.   **Status**

The Office Action indicates claims 1-68 to be pending in this Application. With this response, claims 1, 12-14, 30, 35, 46-48, and 64 are amended. No new matter has been added.

Claims 1-68 are provisionally rejected under 35 U.S.C. 101.

The specification is objected to.

Claims 30, 64, and 66 are objected to.

Claims 1-10, 13-26, 29, 31-44, 47-60, 63, and 65-68 are rejected under 35 U.S.C. 102(e) as being anticipated by Bommareddy (U.S. Patent No. 6,779,039).

Claims 11, 12, 30, 45, 46, and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommareddy in view of Schuetze (U.S. Patent Application Publication No. 2003/0110181).

Claims 27, 28, 61, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bommareddy in view of Garcia-Luna-Aceves (U.S. Patent Application Publication No. 2002/0129086).

Claims 1, 15, 24, 35, 49, and 58 are independent.

II.   **Provisional Rejection of Claims 1-68 under 35 U.S.C. 101**

The Office Action provisionally rejects claims 1-68 under 35 U.S.C. 101, the Office Action stating that:

> "[c]laims 1-68 provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-68 of copending Application No. 10/674679. This is a <u>provisional</u>

14

double patenting rejection since the conflicting claims have
not in fact been patented"
(see Office Action p. 2; emphasis in original).

Noting the rejection to be provisional, Applicants do not further address the

rejection at this time.

III.   Objection to the Specification

The Office Action objects to the specification, the Office Action stating that:

"[t]he disclosure is objected to because of the following
informalities:

The title seems missing 'in' after the word 'handling'.

Appropriate correction is required"
(see Office Action p. 2).

However, Applicants respectfully observe that the title, as filed, correctly sets

forth "SYSTEM AND METHOD FOR DATA HANDLING IN A NETWORK

ENVIRONMENT" (emphasis added), and thus appears to already include the word "in" that is

indicated by the Office Action.

In view of at least the foregoing, Applicants respectfully request that the objection

be withdrawn.

IV.   Objection to Claims 30, 64, and 66

The Office Action objects to claims 30, 64, and 66, the Office Action stating that:

"[c]laims 30, 64, and 66 are objected to because of the
following informalities:

For claim 30, it may dependent to claim 26, based on the
context of adjacent claims, rather than claim 3.

15

For claim 64, it may dependent to claim 60, based on the
context of adjacent claims, rather than 37.

For claim 66, it may be dependent to claim 60, based on the
context of adjacent claims, rather than 61.

The examiner believes it is a typo. Appropriate correction is
required"
(see Office Action p. 2 - p. 3).

With this response, Applicants amend each of claims 30 and 64 in accordance

with the Office Action's suggestions. No new matter has been added. Applicants respectfully

submit that the dependency of claim 66 is as intended.

In view of at least the foregoing, Applicants respectfully request that the

objections be withdrawn.

V.   Amendment of Independent Claims 1 and 35

With this response Applicants amend each of claims 1 and 35. No new matter has

been added.

Applicants respectfully submit that the cited references, taken individually or in

combination, fail, for example, to disclose, teach, or suggest:

"... performing, with respect to one or more associated
clusters in said network environment, one or more traffic
measurements;

receiving one or more traffic measurements from one or
more nodes associated with one or more other clusters in
said network environment;

determining, in accordance with the performed traffic
measurements and the received traffic measurements, one or
more reclustering operations to be performed in said network
environment; and

dispatching data to realize said reclustering"

16

as set forth in each of claims 1 and 35 as amended herewith (emphasis added).

In view of at least the foregoing, Applicants respectfully submit that claims 1 and 35 at least with the amendments herewith, as well as those claims that depend therefrom, are in condition for allowance.

VI.   **Rejection of Independent Claims 15, 24, 49, and 58 under 35 U.S.C. 102**

The Office Action rejects claims 15, 24, 49, and 58 under 35 U.S.C. 102(e) as being anticipated by Bommareddy. However, Applicants respectfully submit that Bommareddy fails, for example, to disclose, teach, or suggest:

> "... receiving a request from a node to <u>change affiliation</u>
> with said network environment ..."

as set forth in claims 15 and 49 (emphasis added).

The Office Action contends that such is taught among column 3 lines 50-51 of Bommareddy.

However, Applicants respectfully observe that this portion of Bommareddy fails, for instance, to disclose, teach, or suggest any <u>change of affiliation</u>, and instead merely discuss identifying a router:

> "[i]n some implementations, a logical router cluster address
> IPgw is configured on the servers as a "default" gateway
> rather than a unique IP address of one of the routers.
>
> The router clustering system responds to an Address
> Resolution Protocol (ARP) request from the servers to
> identify a Media Access Control (MAC) address associated
> with the router cluster. Associating the MAC address with
> the router cluster ensures that the servers send all outbound
> traffic to the router clustering system for forwarding on to
> the designated final destination on the Internet"
> (see Bommareddy col. 3 ln. 47-56).

As another example, Bommareddy fails to disclose, teach, or suggest:

17

"... receiving data at a node in said network environment,
wherein said <u>node</u> is associated with a cluster in said
network environment ..."

as set forth in each of claims 24 and 58 (emphasis added).

The Office Action contends that such is taught among column 2 line 31, column 3
line 55, and column 2 line 40 of Bommareddy.

However, Applicants respectfully observe that these portions of Bommareddy
instead merely discuss "<u>router</u> clustering" and "<u>router</u> cluster[s]":

"[t]he <u>router</u> clustering system responds to an Address
Resolution Protocol (ARP) request from the servers to
identify a Media Access Control (MAC) address associated
with the <u>router</u> cluster. Associating the MAC address with
the <u>router</u> cluster ensures that the servers send all outbound
traffic to the <u>router</u> clustering system for forwarding on to
the designated final destination on the Internet"
(see Bommareddy col. 3 ln. 50-56; emphasis added).

Bommareddy makes it clear that routers are distinct from nodes, for instance, by
discussing "client 412" using "Router1 414":

"[r]eferring to FIG. 4, a schematic block diagram and
associated transition tables depicts a technique for
transferring a packet between a server 410 and a <u>client 412</u>
that is <u>assigned to use Router1 414</u> by the <u>router clustering
system</u>. The outbound traffic 416 has a destination MAC
address designating the MAC address of the traffic
distributor, but has a destination IP address that designates
neither the traffic distributor nor any cluster supported by the
traffic distributor"
(see Bommareddy col. 7 ln. 63 - col. 8 ln. 4; emphasis
added).

In view of at least the foregoing, Applicants respectfully submit that claims 15,
24, 49, and 58, as well as those claims that depend therefrom, are in condition for allowance.

VII.   Dependent Claim Rejections

Applicants do not believe it is necessary at this time to further address the rejections of the dependent claims as Applicants believe that the foregoing places the independent claims in condition for allowance. Applicants, however, reserve the right to further address those rejections in the future should such a response be deemed necessary and appropriate.

(Continued on next page)

<u>CONCLUSION</u>

Applicants respectfully submit that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.
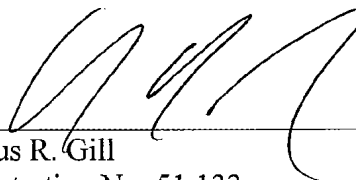
<u>AUTHORIZATION</u>

The Commissioner is hereby authorized to charge any fees which may be required for this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4152US1.

Furthermore, in the event that an extension of time is required, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-noted Deposit Account and Order No.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: <u>October 18, 2007</u>

By:

Mailing Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, New York 10281-2101
(212) 415-8700
(212) 415-8701 (Fax)

Angus R. Gill
Registration No. 51,133

1100991 v1